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6 **IN THE UNITED STATES DISTRICT COURT**

7 **FOR THE DISTRICT OF ARIZONA**

8 Lawrence Peterson, ) No. CV 04-2276-PHX-SMM (LOA)

9 Plaintiff, ) **ORDER**

10 vs. )

11 Joe Arpaio, et al., )

12 Defendants. )

13 \_\_\_\_\_ )

14 Plaintiff Lawrence Peterson, who is confined in the Arizona State Prison Complex-

15 Safford in Safford, Arizona, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C.

16 § 1983 regarding his confinement as a pretrial detainee at Maricopa County's Towers Jail.

17 (Doc.# 1.)<sup>1</sup> In its last Order, the Court concluded that Defendants Maricopa County, Arpaio,

18 Camparano, Noble, Hayes, Durham and Easley would be required to answer Counts 1, 2, 3,

19 4, 8, 9 of the Third Amended Complaint and it dismissed the remaining claims and

20 Defendants, including Ellison. (Doc.# 14.) In the Order, however, the Court inadvertently

21 directed service by the U.S. Marshal on Ellison rather than Easley. For that reason, the prior

22 Order will be amended to correct that error and to require service on Easley.

23 **IT IS ORDERED:**

24 (1) The previous Order (doc.# 14) is amended to vacate service on Ellison and to

25 instead require service by the U.S. Marshal upon Defendant Easley as set forth herein.

26 (2) The Clerk of Court must send Plaintiff a service packet including the Third

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<sup>1</sup> "Doc.#" refers to the docket number of documents filed in this case.

1 Amended Complaint (doc.# 13), the prior Order (doc.# 14) and this Order, and both  
2 summons and request for waiver form for Defendant Easely.

3 (3) Plaintiff must complete and return the service packet to the Clerk of Court within  
4 20 days of the date of filing of this Order. The United States Marshal will not provide  
5 service of process if Plaintiff fails to comply with this Order.

6 (4) If Plaintiff does not either obtain a waiver of service of the summons or complete  
7 service of the Summons and Complaint on Defendant Easely within 120 days of the filing  
8 of the Third Amended Complaint or within 60 days of the filing of this Order, whichever is  
9 later, the action may be dismissed as to Defendant Easely pursuant to Rule 4(m) of the  
10 Federal Rules of Civil Procedure and Local Rule of Civil Procedure 16.2(b)(2)(B)(i).

11 (5) The United States Marshal must retain the Summons, a copy of the Third  
12 Amended Complaint, and a copies of the prior Order (doc.# 14) and this Order for future use.

13 (6) The United States Marshal must notify Defendant Easely of the commencement  
14 of this action and request waiver of service of the summons pursuant to Rule 4(d) of the  
15 Federal Rules of Civil Procedure. The notice to Defendant Easely must include copies of the  
16 prior Order (doc.# 14) and this Order. The Marshal must immediately file a request for  
17 waiver that is returned as undeliverable and waiver of service of the summons for Defendant  
18 Easely. If a waiver of service of summons is not returned by Defendant Easely within 30  
19 days from the date the request for waiver is sent by the Marshal, the Marshal must:

20 (a) Personally serve copies of the Summons, Third Amended Complaint, the  
21 prior Order (doc.# 14) and this Order upon Defendant Easely pursuant to Rule 4(e)(2)  
22 of the Federal Rules of Civil Procedure;

23 (b) Within 10 days after personal service is effected, file the return of service  
24 for Defendant Easely, along with evidence of the attempt to secure a waiver of service  
25 of the summons and of the costs subsequently incurred in effecting service upon  
26 Defendant Easely. The costs of service must be enumerated on the return of service  
27 form (USM-285) and must include the costs incurred by the Marshal for  
28 photocopying additional copies of the Summons, Third Amended Complaint, the prior

1 Order (doc.# 14) and this Order, and for preparing new process receipt and return  
2 forms (USM-285), if required. Costs of service will be taxed against a personally  
3 served Defendant pursuant to Rule 4(d)(2) and (5) of the Federal Rules of Civil  
4 Procedure, unless otherwise ordered by the Court.

5 (7) **A Defendant who agrees to waive service of the Summons and the Third**  
6 **Amended Complaint must return the signed waiver forms to the United States Marshal,**  
7 **not the Plaintiff.**

8 (8) Defendant Easley must answer the Third Amended Complaint or otherwise  
9 respond by appropriate motion within the time provided by the applicable provisions of Rule  
10 12(a) of the Federal Rules of Civil Procedure.

11 (9) Any answer or responsive pleading must state the specific Defendant by name on  
12 whose behalf it is filed. The Court may strike any answer, responsive pleading, or other  
13 motion or paper that does not identify the specific Defendant by name on whose behalf it is  
14 filed.

15 (10) Further proceedings concerning Defendant Easley are referred to Magistrate  
16 Lawrence O. Anderson pursuant to Rules 72.1 and 72.2 of the Local Rules of Civil  
17 Procedure.

18 DATED this 29<sup>th</sup> day of December, 2006.

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21 Stephen M. McNamee  
22 United States District Judge  
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